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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/822,642 | 04/12/2004 | Craig R. Horne | 3275.06US03 | 1933 |
| 63274 7590 04/18/2008 DARDI & ASSOCIATES, PLLC 220 S. 6TH ST. SUITE 2000, U.S. BANK PLAZA MINNEAPOLIS, MN 55402 | | | | |
| EXAMINER | | | | |
| HOFFMANN, JOHN M | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 1791 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 04/18/2008 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/822,642

Applicant(s)

HORNE ET AL.

Examiner

John Hoffmann

Art Unit

1791

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/John Hoffmann/
Primary Examiner, Art Unit 1791

Continuation of 11, does NOT place the application in condition for allowance because: The arguments were not convincing. Regarding antecedent basis - applicant states that the claim is not confusing and no prima facie case was made; however there is no indication as to what the claim actually means, nor any specific error in the rejection. As to the purported dictionary definition that "from" is a starting point of a parameter - Examiner could find no evidence in the record to support this definition - applicant does not point to where it is (by at least paper submission date). Nevertheless the purported definition supports the Office's finding that it suggests a starting point (i.e., that the parameter begins there and then changes to the final value). Examiner agrees that the claim refers to the range. Applicant complains that examiner did not interpret the claims in light of the specification. Examiner attempted to interpret in light of the specification; but the specification did not shed any light on the present language. Re the prior art rejection: It is argued that Hicks implies the composition of the rod and the coating are the same - then applicant concludes that this teaches away from the claimed invention. Examiner disagrees; it appears that applicant misreads the claim. Claim 20 refers to "dopant" compositions; the claim is silent as to the overall glass composition. As pointed out in the final rejection, the claim reads on having a first dopant in the core and a second (different) dopant in the coating; the claim is completely silent as to whether the second dopant can be in the core and/or whether the first dopant can be in the coating. As set forth on page 3 in the final rejection: the term "composition" can be interpreted as covering "ingredient" (i.e. a dopant).